

U.S. Deportment of Transportation

ORDER

DOT 2770.9A

8/1/83

Office of the Secretary of Triansportation

Subspect: EMPLOYEE CLAIMS MANUAL

- This order establishes Department of transpertation policies and procedures pertaining to the processing of claims of Departmental personnel for loss or damage to personal property incident to service with the Government.
- CANCELLATI ON. DOT 2770.9, EMPLOYEE CLAIMS FOR PERSONAL PROPERTY LOST OR DAMAGED INCIDENT TO SERVICE WITH THE DEPARTMENT OF TRANSPORTATION -MANUAL, of 3-26-75.
- REFERENCE. **31** United States Code **3721** (originally, the Military Personnel and Civilian Employees Claims Act of 1964).
- This Manual may be supplemented provided the supple-4. SUPPLEMENTATI ON. mentation is not inconsistent with the provisions herein.



TABLE OF CONTENTS

CHA	PTER	1. GENERAL P	age	Number
	3. 41	Purpose Applicability Responsibilities Delegation of Authority Forms]	l - l l - 1 l - 1 l - I l - 2
СНА	PTER	2. CLAIMS		
	2 1 3 . 4 .	Allowable Claims . L. Nonallowable Claims Limitation Claims Arising in Foreign Areas Because of Hostile Ac Filing of Claims	ts 2	2-1 2-2 2-3 2+3 2-3
CHAI	PTER	3. PROCESSING CLAIMS		
	5 . 6 . 7 . 8 .	Factors Applied in Processing Claims Claims Against Carrier or Insurer Concurrent Claims Against the Carrier, the Insurer, and the Government Preparation of Claim Investigator Reports Action by Legal Counsel Action by Designated Officials Payment of Claim Failure to Make Demand on Carrier or Insurer Recovery of Lost Items	7 · · · · · · · · · · · · · · · · · · ·	3-1 3-1 3-2 3-3 3-3 3-4 3-4 3-4
APPI	ENDI X	1 DOT F 2700.6 , EMPLOYEE CLAIM FOR LOSS OR DAMAGE T PERSONAL PROPERTY		
APPI	ENDI X	AND CIVILIAN EMPLOYEES CLAIMS ACT		
APPI	ENDI X	3. DEMAND ON CARRIER FOR DAMAGE OR LOSS TO PROPERTY		

CHAPTER 1. GENERAL

1. <u>PURPOSE</u>. This Manual establishes procedures and guidelines for **emplo** claims for personal property lost or damaged incident to service with the Department. It also prescribes requirements and procedures for investigating such claims.

2. APPLI CABI LI TY.

- a. This Manual covers employee claims up to \$25,,000 for personal property loss or damage incident to service with the Department as provided by 31 United States Code 3721, Military Personnel and Civil Employees' Claims Act. (Claims covered by the Federal Tort Claim: Act are not allowable under this Manual.) As used in this Manual the word "employee" includes U.S. Coast Guard military personnel. Allowable claims may be submitted by any employee, the authorizate or legal representative of an employee, or survivors of an employ in the following order:
 - (1)) Spouse;
 - (2)) Child or children;
 - (3)) Father or mother, or both; and
 - (4) Brothers or sisters, or both.
- b The insurer's or other **subrogee's** rights cannot be substituted for the rights of an employee or his survivors under the law.

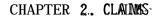
3. RESPONSI BI LI TI ES.

- The Office of the Secretary and the Operating Administrations and responsible for implementing the procedures in this Manual.
- b. The Office of the Secretary and the Operating Administrations will provide for appointment of claims investigators and will develop necessary procedures to enable a thorough investigation and verification of each claim made. The investigation of a claim shall be considered an action distinct from and subsequent to investigation and related actions taken upon initial receipt of a report of lo or damage. This, however, does not preclude the use of the same Department investigative element if appropriate.
- 4. <u>DELEGATION OF AUTHORITY</u>. The authority to settle and pay claims is to the Assistant Secretary for Administration (for the Office of the Secretary) and Heads of Operating Administrations under the **Departme** of Transportation Organization Manual, DOT **1100.60**, of **3-7-79**. Authorized to office directors, regional directors, district manders or other comparable levels and to those individuals that reposition to the above officials. Further redellegation is not authorized.



5. FORMS. A claim will be submitted on DOT F 2700.6, Employee Claim for Loss or Damage to Personal Property, (Appendix 1) as discussed in Chater 2. Payment of the claim will be made on DOT F 2700.5, Voucher f(Payment Under Military and Civilian Employees Claims Act, (Appendix 2 as provided in Chapter 3. Appendix 3 provides a sample of the type of information required by employees when submitting a claim against a carrier for loss or damage to property. The sample is not intended as a Departmental form and none will be prescribed for this purpose,

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- ALLOWABLE CLAIMS. The approving official will decide whether or not a claim is allowable based on the facts in the claim investigator's report and on the recommendation of legal counsel when appropriate. Before approving a claim, the official will use the criteria in this Manual to determine if a claim is reasonable and whether the loss or damage was incurred incident to the employee's service.
 - a. <u>General.</u> No **compensation** shall be paid for loss or damage to personal property unless, considering the place and circumstances, an individual could reasonably be expected to have such property in his possession.
 - b. Losses in Quarters or Other Authorized Places. Losses which occur in the quarters of the employee or other authorized place when on official business are compensable only if the quarters are provided by the Government or are located outside the 50 States and the District of Columbia, see 31 USC 3721(e).
 - c. <u>Storage Losses</u>. Where losses occur at any warehouse, office, **bags**; holding area, or other place authorized for receiving or storing property, storage of the personal property lost or damaged must his been authorized by the Department, and the claimant must have **comm**; with regulations concerning storage at that place in order for **th** loss to be compensable.
 - Travel and Transportation Losses. Compensable losses incurred in transit in connection with official temporary duty and permanent change of station travel include losses of unaccompanied baggage or household goods, losses of personal property accompanying the employee, and losses or damage to other authorized items (e.g., items required for the performance of an assignment). Losses incurred while property was stored at a commercial facility for the personal convenience of the claimant at his expense pursuant to an authorized move are not compensable. See decision of the Comptroller General, **B-153031**, **1-28-64**, concerning commute rate household goods shipments.
 - e. <u>Theft Losses</u>, Theft losses are not compensable when the claimant did not use reasonable care in protecting the property.
 - f. Clothing and Articles Being Worn. When clothing and articles being worn are lost, damaged or destroyed under circumstances incident to service, a claim is allowable provided such loss resulted from an unusual occurrence; i.e., beyond the risk of usual daily act.

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- Motor Vehicles. Claims for **lloss** or damage to motor vehicles **incite** to **oversea** shipments authorized by the Government will ordinarily allowed. Meritorious claims for loss or-damage may be submitted in some instances when a vehicle is used in connection with **officip** business, see **60 Comp. Gem. 633** for additional guidance.
- NONALLOWABLE CLAIMS. Claims otherwise considered allowable within the scope of this Manual are NOT allowable when the damage or loss of **pers** property incident to Department service **involves** any of the following:
 - a. <u>Business Property</u>. Any article used, or for use, in a private bus enterprise.
 - b. Money. Claims for loss of money may be allowable under the following conditions.
 - (1)) When deposited with personnel- authorized to receive funds for the purpose of safekeeping or transmittal provided an **appropri** security container is used which is dedicated to the storage of funds and is under the exclusive control of the **authorize** recipient.
 - (2)) When lost incident to an accident, fire or natural disaster.
 - (3)) When stolen from quarters provided the claimant had exercise due care.

As used herein, money includes cash and negotiable instruments but excludes any liability incurred by the loss of personal credit cards.

- in whole or part by negligence or wrongful act on the part of the claimant or his agent or his employee. For the purpose of this pregligence is defined as failure to exercise that degree of care which a reasonable and prudent person would have exercised under the same or similar circumstances. Damage or loss to portions of personal property denied because of the negligence of the claimant will not act to bar claims for damage or loss to other portions (same property which are allowable under paragraph 1 of this Chap'
- d. <u>Violation of Directives</u>. Items which were acquired, **possessed** transported in violation of pertinent directives and regulations. This subparagraph does not prohibit payment of claims for losses to shipments to the extent that those shipments exceeded maximum weight entitlements.
- **e.** Personal Effects. Personal property, including items to be used lieu of or in addition to Government-furnished equipment, which brought into Government offices or other authorized place at the discretion of the employee.

8/1/83



- 3. LIMITATION. The total amount of a claim filed by an employee arising from a single incident may not be settled for more than \$25,000. Claims arising prior to July 28, 1982 may not be settled for more than \$15,000.
- 4. <u>CLAIMS ARISING IN FOREIGN AREAS BECAUSE OF HOSTILE ACTS.</u> Claims for loss or damage to persona? property in a foreign country may be paid up to **\$40,000** if the loss or damage
 - a. was incident to an evacuation of United States personnel in response to political unrest or hostile acts or
 - b. resulted from acts of mob violence, terrorist attacks, or other hostile acts directed against the United States Government erits personnel.

Upon payment of a claim, the United States-becomes subrogated to the claimant's rights against the foreign country in which the loss or damage occurred, Additionally, funds may be obligated or expended under this authority (31 USC 3721(c))) only to the extent they are specifically provided for in appropriation acts.

5. FILING OF CLAIMS.

- a. General. All claims coming within the scope of this Manual should be submitted to the designated office. The law provides that a claim must be submitted within two years after it accrues unless war or armed conflict intervenes, in which case if good cause is shown, the claim may be presented-not later than two years after the cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier. For filing claims for loss or damage to property shipped under a Government Bill of Lading, see Chapter 3..
- Evidence to be Submitted by Claimant. DOT F 2700.6, Employee Claim for Loss or Damage to Personal Property, (Appendix 1) shall be submitted
 -in an original and one copy for all claims coming within the scope of this Manual. In addition to DOT F 2700.6, the following supporting evidence shall be submitted when applicable.
 - (1) Itemized bill for repair of damaged property.
 - (2)) Evidence that the employee has filed a claim with the carrier.
 - (3) A statement concerning any insurance coverage and reimbursement obtained from the insurer. The statement should describe the type of insurance and coverage, give the name of the insurer and include the amount of reimbursement received for each item.
 - (4) Bill of lading where goods are lost or damaged in transit including all shipping/receiving documents evidencing the condition of the claimed items.

- (5) At least one written estimate of the cost of repairs from a competent bidder or person if the property is repairable but has ."Competent bidder or person" means one who not been repaired. has experience in the line of needed repairs and is in a position to know the cost of repair of such items in the current market, (The cost of preparing the estimate is reimbursable in accordance with this Manual.) Exceptions to the above are permissible when in the opinion of the claim investigator the probable estimate fee will be out of proportion to the cost of repair. In this situation, the claim investigator, with the concurrence of the claimant, will recommend an amount for payment. The approving official may reject any estimate or statement of the cost of repairs that does not meet the above standards. shall satisfy the claim investigator that items claimed as beyond economical repair are in fact in that condition by submitting evidence received from a competent-person.
- Submission of DOT F 2700.6, Employee Claim for Loss or Damage to Personal Property. Claimant shall submit DOT F 2700.6 to the claim investigator designated by each Operating Administration in accordance with Chapter 1. Claimants within the Office of the Secretary should forward claims to the Office of Administrative Operations, M-40, for review and investigation prior to ultimate settlement by the Assistant Secretary for Administration.

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CHAPTER 3. PROCESSING CLAIMS

1. FACTORS APPLIED IN PROCESSING CLAIMS.

- Cost or Value. In most cases the value of the loss or damage incurred should be predicated upon the replacement cost at the time of the incident. Replacement cost should be computed on the basis of the cost of a new item less the appropriate percentage of depreciation so as to compensate for the age and length of time the item has been in use. This rule is designed to reflect changes in the purchasing power of the dollar which have taken place since the item The amount of settlement will be determined was originally purchased. by applying the applicable rates of depreciation to the replacement cost of property lost or damaged beyond economical repair, and by approving the cost of repairs when an item is economically repairable, provided the cost of repairs does not exceed the depreciated value of the item.
- by considering the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the date of acquisition and the date of accrua? of the claim.* To help assure uniformity in applying rates of depreciation, the standard guide for use within the Department will be the Joint Military/Industry Depreciation Guide available from the American Movers Conference, P.O. Box 2303, Arlington, Virginia 22202. This guide is generally available at most agencies' transportation offices, local offices of carriers and regional offices of the General Services Administration. Other similar standard guides may be used in exceptional circumstances.
 - *Date of accrual of the claim is generally the date of the incident causing the loss or damage. In some instances, such as with stored household goods, this date may be the date the claimant (1) should have "discovered" the loss or damage through the exercise of due diligence or (2) was officially notified of the loss or damage.
- An additional amount, not in excess of **25** percent of the depreciated value of the property, may be allowed by the **designated** official to compensate employees stationed outside the contiguous **48** States for loss or damage to their personal property. This is to offset the additional costs of repairs or replacement that **may** be encountered by employees at such locations. The determination by the designated official as to the additional amount allowable, if any, will be final. The basis for the determination to allow an additional amount should be fully explained in the claim file.

2. CLAIMS' AGAINST CARRIER OR INSURER.

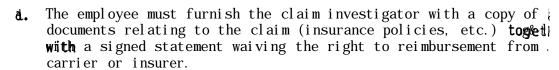
a. Carrier Claims.

- (1)) Whenever property shipped under the commuted rate system is lost, damaged, or destroyed while being shipped pursuant to authorized travel orders, the employee must file a written claim for reimbursement with the carrier according to the terms of the commercial bill of lading or contract. This demand should be made against the last commercial carrier known or believed to have handled the goods, unless the carrier who was in possession of the property when the damage or loss occurred is known. In this event, the demand should be made against the last carrier on each such document.
- (2) If it is apparent that the damage or loss is attributable to packing, storage, or unpacking while in the custody of the Government, no demand need be made against the carrier. Damage or loss attributable to the Government generally occurs only when employees are being moved from or to remote locations.
- (3) When shipment is authorized at actual expense by Government bill of lading, claims for loss or damage to property can frequently be resolved through direct contact between the employee and the carrier or its insurer. The servicing transportation office will assist the employee if necessary or will handle the claim entirely with the assistance of the employee. The employee must provide the transportation officer with sufficient supporting evidence to permit filing a claim against the carrier. This may require that the employee provide an estimate of the cost of repair or replacement of property damaged-or lost.
- Insurer Claims. Whenever property is damaged, lost or destroyed and is insured in whole or in part, the employee must make a demand in writing for reimbursement under the terms and conditions of the insurance coverage. Such demand **shedtld** be made within the time limit **establidshed** in the policy and prior to filing a concurrent claim, if any, against the Government. See paragraph 8.
- c. Demand on Carrier or Insurer. It is suggested that such demands be made in substantially the format as indicated in **Appendix 3.**
- d. <u>Replacement in Kind.</u> Replacement in kind is allowable in lieu of a cash settlement for claims by U.S. Coast Guard personnel in accordance with the Coast Guard Claims Manual.
- CONCURRENT CLAIMS AGAINST THE CARRIER, THE INSURER, AND THE GOVERNMENT.

 Generally claims against the Government will not be paid until claims against carriers or insurers have been settled. However, in situations where settlement of a claim against a carrier and/or insurer will be prolonged so as to impose a hardship upon the employee, a claim may be presented to the Government without waiting for the disposition of the claim against the carrier or insurer. Payment of the claim is subject to the following conditions:



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- **b.** The employee shall notify the carrier or insurer to forward **copi**; of all correspondence related to the claim to the claim **investig**.
- c. The claim against the Government will be paid in an amount approduce by the settlement authority under the provisions of this Manual.
- d. The accounting office will establish an account receivable for the amount of the claim against the carrier or insurer. Proceeds reas a result of payment of the claim by the carrier or insurer will credited as an appropriation refund against the appropriation for which payment to the employee was originally made.
- e. In the event the amount of the claim from the carrier or insurer exceeds the amount previously paid to the **employee** by the **Depart** the excess will be refunded to the employee.

4. PREPARATION OF CLAIM INVESTIGATOR REPORTS.

- a. Form for Claim Investigator Reports. The claim investigator will complete the appropriate section of DOT **F 2700.6**, Employee Claim Loss or Damage to Personal Property.
- b. <u>Investigation</u>. The cl-aim investigator will consider all **informa** and evidence submitted with the claim and conduct such **investiga** as may be necessary, including securing testimony from witnesses
- c. Claims Arising Out of the Same Incident. A separate report will prepared on each claim. However, with several separate claims, claim investigator may avoid duplication of effort by completing the detailed report of investigation with all necessary exhibit: documents which-are common to the group in one claim and incorpor by reference the report with supporting exhibits in the other clarising out of the same incident. A brief summary of facts rel; to thedcommon incident should be included in these latter claim: as well as reference to the claim in which the detailed report it exhibits may be found.
- investigator, and review by the legal counsel is optional. However: there is a question of legality, complex claims will be reviewed by legal counsel who will make a recommendation as to whether the recommendations of the investigator are supported by the evidence available whether the allowance of the claim would be in compliance with the Military Personnel and Civilian Employees' Claims Act (31 USC 3721))

8/1/83

- ACTION BY DESIGNATED OFFICIALS. If the legal counsel recommends payment of the claim, the designated official shall approve or disapprove it for payment, and if -approved, will initiate DOT F 2700.55, Voucher for Payme Under Military and Civilian Employees' Claims Act (Appendix 2).
- 7. <u>PAYMENT OF CLAIM</u> Following certification by the claimant and approval by the settlement authority, the claim and all supporting documentation will be forwarded to the servicing accounting office.
- 8. FAILURE TO MAKE DEMAND ON CARRIER OR INSURER. Failure to make a demand on a carrier or insurer or to make all reasonable efforts to collect the amount recoverable may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable had the claim been timely and diligently processed.
- RECOVERY OF LOST ITEMS. In-the event a-lost item for which a claim has been paid is subsequently recovered, the employee must notify the settlement authority and may be required to refund that portion of the reimbursement to the Government.

FOR THE SECRETARY OF TRANSPORTATION



Robert L.. Fairman Assistant Secretary for Administration



DEPARTMENT OF TRANSPORTATION EMPLOYEE CLAIM FOR LOSS OR DAMAGE TO PERSONAL PROPERTY						
SEC	CTION A - CLA	MANT IDENTIE	ICATION			
. NAME ANC ADDRESS OF CLAIMANT	2, TITLE AND		IOATION		3. TELEPHONE NO.	
	4, OFFICE OR	SERVICE		5. LOCATIO	N (City and stote)	
i. LOCATION WHERE LOSS OR DAMAGE OCCURR	ED		7. DATE	OF LOSSOR DA	MAGGE & TOTAL AMT. CLAMED	
SEC"	TION B . DESCR	IPTION OF PR	OPERTY		S	
ITEMIZED LIGHTING	DATE	PURCHASE P	VA	LUE WHEN	TOBECCOMPLETERSY	
ITEMIZED LISTING (A ttach supplemental shee t, i I necessary)	ACQUI RED	OR VALUE		LUE WHEN OST OR DAMAGED	INVESTIGATION DEPRECIATED VALUE	
				AMAGED	DEFRECIATED VALUE	
	-	 -				
110 2015		. <u> </u>				
9. CLAIM IS FOR (Check one) COSS (Includes theft) C-DANWIGE	TEMENT OF CIRCU	JIMIS II/AIWIGEES				
1A. WAS PROPERTY INSURED?		12A. WAS PRO	PERTY IN	POSSESSION	OF COMMON CARRIER AT	
-1 NO YES (IF YES: complete ! FB	eid 1 fC)	TIME OF		m "YES" com	plete 128 and 120)	
8. NAME OF INSURER		B. HAS CLAN			1	
		☐ N9	O YE			
C. AMOUNT COLLECTED (Attach itemitzed fie	ting))	C. DISPOSIT	t ion of	CLANM	j	
					_	
IERTIFICATION-1 make this claim with full	knowledge of the	penaltiass for wi	illfu l lly s	ma king a false	claim and certify that I an	
13. DATE 14. IF CLAIMANT SHIP	· IS NOT OWNER	R, STATE RELAT	ri@n- 15.	, SIGNATURE	OF CLAIMANT	
CRIMINAL PENALTY FOR PRESENTING A FRAUD	ULENT CLAIM OR 18 U. S. C. 1997, 1009	MAKING FALLS	E STATE	VIENT: Fina of	not mane than \$10,000	
	· (To Be Comple		t e d Inve	stigator)		
16. NAME OF INVESTIGATOR	17. TITLE AND	GRADIE			16. TELEPHONE NO.	
		- i		01.10	_	
19. OFFICE OR SERVICE		20. LOCATION	(City a	nd Siate)		
21. VERIFICATION OF FACTS/DISCREPANCIES						
<u> </u>						
22. REMARKS AND RECOMMENDATORS						
22 0.75	% SIGNIATUE	DE OF INVESTIC	ATOP			
24. SIGNATURE OF INVESTIGATOR						
SECTION D · APPROVAL						
25. PAYMENT IS APPROVED IN THE AMOUNT	26. DATE		SIGNATU	JRE OF APPR	OVING OFFICIAL	
OF \$						
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Form Appearail By The Lorigizable General, U.S. GEPARTIMENT	OF TRANSPORTAT	ION	SGH EOW L E MO.
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UNDER MILLITAKRY MD CI			CLAIM MO.
(P	L 95-336)		OLAIM MO.
NAME OF CLAIMANT			PAID BY
WILING ADDRESS			1
AMOUNT OF AWARD, COMPROMISE, OR SETTI	EMENT		\$
BRIEF DESCRIPTION OF CLAIM (See attachments	for further Giller	ion in delilli)	
	-		
I CERTIFY THAT:: the damage, loss, or net on the pert of the claiment, or his agent erty been replaced (except an explained on ered by insurance nor reimbursable by commisted on Form DOT F 2700.6 (and on different ploperty; and no previous claim has be	or employee; non the ttudicid p non carrier (except tional entert	e of the property has been recovered for DOT F 2700.69; the damage, loss of the actual form the structual fo	d, nor has nay of the propor destinaction with not CONDOT F 2700.60; all stricles urchased and are not Govern-
are • aptained on the Form DOT F 2780-69). If any of the property for which claim	is made is later re	covered claimant agrees to give notice	immediately to the NOT
			3,
I make the foregoing claim with full kn iff (2) 28., Societor 287, provides for a manufacture the withingstated award, compromise, or settle a compilate release by me of any claim again omission gave rise to the claim, by reason	line of \$10,000 or between as final and east the United State	improcumment for 5 years or both). In conclusive on me, and agree that sailes and against the employee of the Co	, the claimant also accept dacceptance constitutes
SIGNATURE OF WITNESS TO CLAIMANT'S SIGN	NATURE	SIGNATURE OF CLAIMANT for suthorized	DATE
		j.	
This claim has been fully examined in acco	ordance with the		
provisions of the Military Personnel and Ci Claims Act approved August 31, 1964 and is	ivilian Employees'	Pursuant to the authority vested in voucher is correct and proper for	
AMOUNT OF \$	Proven in the	AMOUNT OF \$	
SIGNATURE OF APPROVING OFFICIAL	DATIE	SIGNATURE OF AUTHORIZED CERTI OFFICER	FYING DATE
	1.	L	
TITLE	•	TITLE	•
ACCOUNTING CLASSIFICATION		1	PAID BY CHECK NO.
		1	

Form **601** F 2700.5 (2-73)



	SAMPLE DEMAND ON CARRIER FOR DAMAGE TO SAMPLE OR LOSS OF PROPERTY						
N AMI	COP CARRIER		ADDRESS				
CLAII	CLAIM IS PRESENTED FOR LOSS DAMAGE IN CONNECTION WITH FOLLOWING SHIPMENT:						
FROM	4 (Conaignor)		SHIPMENT LOADED ((City, town, post or static	on)	DATE	
TO (Canaignes)		SHIPMENT UNLOADED (City, town, post or station)			DATE		
	ILL OF LADING CONTRACT CHE	GAGE	HUMBER OF GOVERN	NMENT BILL OF LADIN	G	DATE OF B/L	
covi	ERING SHIPMENT OF HOUSEHOLD GOD	·					
	ITEMS LOST OR DAMAGED (Continue on		ecossery. Enter TOTA	L AMOUNT OF CLAIM	n apace indicate	ed below)	
INV. ITEM NO.	COMPLETE DESCRIPTION OF STEM	APPROX. WEIGHT (Ibs)	DATE ACQUIRED AND THERE	NATURE AND EXTENT OF LOSS OR DAMAGE	ORIGINAL COST	AMOUNT NOW CLAIMED	
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<u> </u>		+				 	
		+			****	 	
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	ARKS	-					
EM	-	•					
)			
1							
	ASF MAIL ALL CORRESPONDENCE IN RE E OF CLAIMANT	GARD TO TH	HIS CLAIM TO:	TOTAL VALUE OF EN	TIRE SHIPME	T I	
				SIGNATURE OF CLAR	MANT	DATE	